

7.5 MIXED USE (MU) DISTRICT

7.5.1 INTENT

The MU District is intended to provide for higher-density residential development with residential services and limited commercial uses operating at a small scale. This district allows small towns throughout the county to maintain local services and expand residential development.

7.5.2 MINIMUM LOT AREA

A minimum lot area of 6,400 square feet is required.

7.5.3 BUILDING HEIGHT

No restrictions, except as regulated in the Military Overlay District.

7.5.4 YARDS REQUIRED

7.5.4.1 Side Yard

The side yard width shall not be less than six (6) feet.

7.5.4.2 Front Yard

The front yard shall not have a depth of less than fifteen (15) feet.

7.5.4.3 Rear Yard

The rear yard depth shall not be less than ten (10) feet.

7.5.4.4 Exclusion

Yard requirement provisions shall not apply to ground level installation of exterior spot lighting allowed as an accessory use.

7.5.5 SIGNS

Signs shall be subject to the regulations contained in Section 8.1. No signage advertising off-premise businesses allowed.

7.5.6 OFF-STREET PARKING

Off-street Parking shall be provided in accordance with Section 8.4.

7.5.7 LANDSCAPING

Landscaping requirements shall be in accordance with Section 8.18.

7.5.8 SITE PLAN

Site Plan review and approval shall be in accordance with Section 8.5. In each case where a commercial building or use is proposed, the Zoning Administrator shall review the Site Plan of the proposal in accordance with Section 8.5 and shall

approve, approve with modifications, or disapprove such site plan. In modifying or disapproving such site plan, the Zoning Administrator shall enter the reasons for such action in the Zoning Administrator's records.

7.5.9 PERMITTED PRINCIPAL USES

- (1) All Permitted Principal Uses allowed in RR-5, SR-1, and SR-2 Districts.
- (2) Any Retail or Wholesale Trade (excluding Large Equipment Trade) including, but not limited to:
 - a. Administrative Services.
 - b. Agricultural Commodity Storage Facility.
 - c. Agricultural Sales (Small Equipment/Machinery).
 - d. Alcohol Distillery.
 - e. Auction Sales.
 - f. Automotive, Mobile Home, Marine, Recreational Vehicle and Accessories Sale and Service.
 - g. Building Materials, Hardware and Farm Equipment Sales and Service.
 - h. Butcher Shop.
 - i. Construction Material Sales.
 - j. Contractor Yard, Small (see Section 8.15.1).
 - k. Convenience Sales.
 - l. Financial Services.
 - m. Funeral Home.
 - n. General Repair.
 - o. General Sales.
 - p. General Services.
 - q. Health Care Center.
 - r. Health Care Facility.
 - s. Hotel and Motel.
 - t. Instructional Facility.
 - u. Micro-Brewery.
 - v. Off-Site Liquor Sales.
 - w. Professional Services.

- x. Recreational Vehicle Park.
 - y. Restaurant.
 - z. Retail.
 - aa. Secondhand Sales.
 - bb. Shopping Center.
 - cc. Small Equipment Rental/Sales/Repair.
 - dd. Specialty Sales.
 - ee. Tavern.
 - ff. Vehicle Fuel Sales.
 - gg. Vehicle Sales and Rental.
 - hh. Vehicle Services.
 - ii. Veterinary Clinic – Small Animal.
 - jj. Wholesale Trade.
- (3) Gravel Pit (Open Cut Mining Operation).
 - (4) Mobile Home Park/Mobile Home Court.
 - (5) On-Site Construction Office.
 - (6) Storage Facility, Self-Service where indoor storage space is provided for rent or lease and subject to the following conditions:
 - a. Principal use of a rented or leased space shall be restricted to storage and shall not include processing, refining, transfer or distribution of any commercial material or product;
 - b. Storage of flammable or explosive liquids, solids, or gases shall not be permitted;
 - c. Landscaping requirements shall be in accordance with Section 8.18; and
 - d. All material must be stored inside units. Storage of licensed, operable vehicles including, but not limited to, recreational vehicles, cars, trucks, vans, trailers, boats, motorcycles, and all terrain vehicles, may be outside provided that proper screening, approved by the Zoning Administrator, as to shield these units will occur.
 - (7) Wild Game Processing Facility.

7.5.10 PERMITTED ACCESSORY USES LOCATED ON THE SAME LOT WITH THE PERMITTED PRINCIPAL USE

- (1) Amateur Radio Station and/or Antenna, Meteorological Towers, Residential Wind Turbine not to exceed 50 kW may be used in the MU District subject to the requirements of Section 8.8 of these regulations.
- (2) Any Customary Use Incidental to the Permitted Use, but not including any Permanent Outdoor Storage.
- (3) Concession Stand, where a legally permitted principal land use of any of the following exists: Outdoor Sports and Recreation/Outdoor Entertainment, Indoor Sports and Recreation/Indoor Entertainment, Event Center.
- (4) Exterior Spot Lighting directed onto the premises providing illumination of buildings or grounds, provided such sources be shaded from motorists on public roadways and be located so that the beams are not directed toward any lot in a residential district, public highway, or the sky.
- (5) Home Occupations.
- (6) Professional Office in a Residence.
- (7) Signs as covered in Section 8.1, pertaining to the permitted use and on the same lot therewith. No signage advertising off-premise businesses allowed.

7.5.11 USES PERMITTED UPON ISSUANCE OF A SPECIAL USE PERMIT

- (1) Administrative Government Center.
- (2) Animal Shelter.
- (3) Artisan Shop.
- (4) Bus Transit Terminal.
- (5) Casino, provided it is not within 600 feet (measured in a straight line, without regard to intervening structures or streets, from the outer wall of the casino, to the outer wall of the preceding use) of an education facility (K-12), day care facility, or worship facility.
- (6) Commercial Kennel.
- (7) Composting Facility.
- (8) Contractor Yard, Large (see Section 8.15.2).
- (9) Event Center.
- (10) Federal Firearm Retailers, Dealers, Repairers.

- (11) Garage, Public.
- (12) Garage, Private.
- (13) Indoor Entertainment.
- (14) Indoor Sports and Recreation.
- (15) Large Equipment Rental/Sales/Repair.
- (16) Manufactured Housing Sales.
- (17) Manufacturing & Assembly.
- (18) Membership Club.
- (19) Multi-family Dwelling.
- (20) Outdoor Entertainment.
- (21) Outdoor Sports and Recreation.
- (22) Parking Garage.
- (23) Parking Lot.
- (24) Parking Structure.
- (25) Recycling Center.
- (26) Solid Waste Transfer Station.
- (27) Taxi Cab Dispatch Terminal.
- (28) Telecommunications Facility.
- (29) Tourist Home.
- (30) Utility Installation, Minor.
- (31) Vehicle Repair.
- (32) Veterinary Clinic, Large Animal.
- (33) Warehouse.

SECTION 10. STANDARDS FOR SPECIAL USE PERMITS

10.1 GENERAL PROVISIONS

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A Special Use Permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be that listed in the Cascade County Planning Department's Fee Schedule.

10.2 REQUIRED PLAN

An Applicant must notify the Planning Department and request a pre-application meeting. The pre-application meeting will be scheduled within thirty (30) days of the request. At this meeting, staff will indicate the necessary information, process, and timeline for the special use permit process, including a signed Use Statement Form.

The application for a Special Use Permit must include the following and any additional materials requested by Planning Staff during a pre-application meeting or relevant to the Special Use Permit:

- (1) A Special Use Permit Application signed by the land owner and by the Applicant if different from the land owner.
- (2) A vicinity map of the parcels and surrounding area clearly identifying the location of the property.
- (3) A legal description of the property.
- (4) A lot layout plan may be required indicating some or all of the following:
 - a. Identify any covenants, liens, easements, or any other encumbrances upon the parcel. If a description will not suffice, provide copies or exhibits when necessary.
 - b. The land area of the parcel (found on deed, subdivision plat or certificate of survey at the County Clerk and Recorder's Office or Planning Department).
 - c. Describe the existing land use of the parcel and neighboring areas.
 - d. Describe the anticipated impact upon neighboring property.
 - e. On a Site Plan, indicate the dimensions of the property under

consideration, the size and placement of existing structures, parking areas and landscaping areas.

- f. On a Site Plan, indicate the location of existing curb cuts or access points, traffic access and circulation, drives, signs, exterior lighting, required yards and open spaces, landscaping, and screening.
- g. On a Site Plan, indicate the location of any existing utilities such as water, sewer, gas, electricity, storm sewer, rivers, creeks, streams, irrigation ditches, easements, historical land marks, or any other items that may affect the application and/or other pertinent information as required in Section 10.5 that may be necessary to determine if the special use meets the requirements of these regulations.

10.3 PUBLIC NOTIFICATION

A public hearing shall be required for all special use permit applications heard by the ZBOA. Notice shall be provided for as set by MCA § 7-1-2121. The notice shall be published in a newspaper of general circulation in Cascade County, twice with at least six (6) days separating each publication.

The owner of the property for which a special use is sought, or their agent and all adjacent land owners shall be notified of the hearing by certified mail. At the public hearing, the ZBOA will hear testimony from proponents and opponents of the special use permit application. After the public hearing is closed, the ZBOA may approve, deny, approve with conditions, or table for further consideration until the next ZBOA meeting, the special use permit.

10.4 EXPIRATION

A Special Use Permit Application, once deemed sufficient and prior to the hearing by the ZBOA, shall be scheduled for the next Board meeting unless a hold request is submitted. Only the Applicant may submit a hold request to the Planning Department and a hold request must include a set timeline for lifting the hold. No request to place an application on hold shall exceed six (6) months. An application shall expire after being on hold for six (6) months, or a material change to the application has been submitted. Upon expiration, a new Special Use Permit must be applied for.

The ZBOA approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of the approval if construction or the use has not started. The Zoning Administrator may grant a one-time only six (6) month extension on the ZBOA approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the ZBOA prior to the date of expiration.

10.5 EXISTING VIOLATIONS

No permit shall be issued for a special use where there is an existing violation of these regulations or any other existing violations of Cascade County, State, or Federal Regulations or laws, or for delinquent county taxes.

10.6 STANDARDS APPLICABLE TO ALL SPECIAL USES

Before the ZBOA can approve any Special Use Permit, it must first reach each of the following conclusions:

- (1) Conditions may be required that the ZBOA determines if implemented, will mitigate potential conflicts in order to reach these conclusions.
- (2) The proposed development will not materially endanger the public health or safety. Considerations are the following:
 - a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersections and approaches.
 - b. Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collections, and fire protection.
 - c. Soil erosion, sedimentation, and storm water runoff.
 - d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- (3) The proposed development will not substantially injure the value of adjoining property or is a public necessity.-Considerations are the following:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
 - b. Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property.
- (4) The proposed development will be in harmony with the area in which it is located. Considerations are the following:
 - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.
- (5) The proposed development will be consistent with the Cascade County Growth Policy. Considerations are the following:
 - a. Consistency with the Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.
 - b. Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

10.7 OPERATIONS

Operations in connection with Special Use Permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

10.8 STAFF REVIEW

After an application is reviewed by the Planning Staff and deemed to be complete, staff will proceed with notification of adjoining property owners, posting of the notification of public hearings, and determine the date, time, and place for the public hearing to occur before the ZBOA.

10.9 ZONING BOARD OF ADJUSTMENT REVIEW

In reviewing Special Use Permit Applications, the ZBOA will hold a public hearing to allow the staff, petitioner, and other interested parties to present competent, substantial, and material factual evidence relating to the required conclusions. The Board will then discuss the petition and make findings of fact supported by the presented evidence. Based on those findings, the Board will decide whether or not it can reach each of the required conclusions. The Board may approve a petition only if it reaches all of the required conclusions. The Board may approve a petition subject to conditions reasonably necessary to carry out the purposes of this ordinance.

Note: The petitioner bears the burden of presenting sufficient factual evidence to support findings of fact that allow the Board to reasonably reach each of the required conclusions.

After hearing presented evidence and the Board's discussion, the petitioner may ask the Board's permission to revise the petition to address raised concerns. If the Board grants the request, the Board may either adjust conditions to the Special Use Permit or table the review process until the next ZBOA meeting to allow all interested parties the ability to submit additional comments to the revised petition.

If the petition is approved, the Planning Staff will prepare and issue the petitioner a Conditional Letter of Approval indicating the conditions upon which the Special Use Permit will be issued. Once the petitioner satisfies the conditions set forth by the ZBOA, the Planning Staff will issue the Special Use Permit.

10.10 APPEALING ZONING BOARD OF ADJUSTMENT DECISION

Appeals of the ZBOA decision shall follow the process as outlined in Section 12 of these regulations.

10.11 REVOCABILITY

A violation of a Special Use Permit will be treated as any other violation under Section 13 of these regulations.